DEPARTMENT OF ECONOMIC SECURITY

Your Partner For A Stronger Arizona

DIVISION OF DEVELOPMENTAL DISABILITIES

Sent on Behalf of DES/DDD Business Operations

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TRANSMITTAL DATE: June 6, 2018

TOPIC: Medicare Waivers Reminder

Target Audience – DES DDD Providers

Federal law 42 U.S.C.1396a(a)(25)(A) requires Medicaid to take all reasonable measures to ascertain the legal liability of third parties for health care items and services provided to Medicaid members. The purpose of this reminder is to delineate the Division's requirements for Coordination of Benefit [COB] activities and Third Party Liability [TPL] recoveries.

As we venture forward into further compliance with existing laws, regulations and polices, we require our providers to adhere to the Centers for Medicare and Medicaid Services [CMS] standards.

Coordination of Benefits are the activities involved in determining Medicaid benefits when a member has Medicaid coverage and coverage through an individual, entity, insurance, or program that is liable to pay for health care services.

Cost Avoidance is to deny a claim and return the claim to the provider for a determination of the amount of third-party liability. [Refer to A.A.C. R9-22 Article 10.] For purposes of cost avoidance, establishing liability takes place when the Division receives confirmation that another party is, by statute, contract, or agreement, legally responsible for the payment of a claim for a healthcare item or service delivered to a member. If AHCCCS determines that the Division is not actively engaged in cost avoidance activities, the Division shall be subject to sanctions.

Third Party Liability is the legal obligation of third parties [e.g., certain individuals, entities, insurers, or programs] to pay part or all of the expenditures for medical assistance furnished under a Medicaid State plan.

Medicaid is the payor of last resort unless specifically prohibited by applicable state or federal law. This means Medicaid shall be used as a source of payment for covered services, only after all other sources of payment have been exhausted. The Division shall take reasonable measures to identify potential legally liable third-party sources. The Division is responsible for making third-party payer information available through the Division's verification systems for use. Third party-payor information may also be obtained through AHCCCS Administration Verification Systems. The Division is responsible for communicating TPL responsibilities to subcontractors per A.A.C. R9-22-1003.

The Division shall coordinate benefits in accordance with 42 CFR 433.135 et seq., A.R.S. §36-2903, and A.A.C. R9-22-1001 et seq., so that costs for services otherwise payable by the Division are cost avoided or

recovered from a liable third party. The term "State" shall be interpreted to mean "Division" for purposes of complying with the federal regulations referenced above.

U.S. providers have been federally mandated to bill "original" Medicare for covered services since **1990**.

> The Social Security Act (Section 1848(g)(4)) requires that claims be submitted for all Medicare patients for services rendered on or after September 1, 1990. This requirement applies to all physicians and suppliers who provide covered services to Medicare beneficiaries, and the requirement to submit Medicare claims does not mean physicians or suppliers must accept assignment. Compliance to mandatory claim filing requirements is monitored by CMS, and violations of the requirement may be subject to a civil monetary penalty of up to $2,000 for each violation, a 10 percent reduction of a physician's/supplier's payment once the physician/supplier is eventually brought back into compliance, and/or Medicare program exclusion. Medicare beneficiaries may not be charged for preparing or filing a Medicare claim.

Medicare certification is required of AHCCCS providers. The contributory Medicare program needs to pay the claim before an entirely taxpayer funded program [Medicaid] pays the claim. Medicaid is the payor of last resort. Medicare is primary to Medicaid.

Providers, including all rendering providers, may begin the Medicare certification process, which is available here: https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/MedicareProviderSupEnroll/EnrollmentApplications.html

CMS will process the application and will backdate the certification to the date of submission.

DDD may grant Medicare waivers if proof of application submission for Medicare certification has been obtained and shared with TPLBenefits@azdes.gov. Providers are required to continue to routinely bill Medicare and may submit Medicare remits with a DDD claim.

The Research & Audit Unit will be monitoring and auditing these providers for compliance. If the provider fails to exercise due diligence to complete the Medicare certification process, payment for services may be denied and/or subject to adjustment, recoupment or recovery.

The Division is taking reasonable measures to ensure that our members receive the care they need while maintaining CMS standards.

If you have any questions regarding the Medicare waivers, please feel free to contact Customer Service at 1-844-770-9500 or DDDCustomerService-Providers@azdes.gov.

Thank you!